

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SEAN E. MARGULIS,

Appellant,

v.

FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

Respondent.

2:11-CV-1630 JCM (CWH)

ORDER

Presently before the court is appellee Federal National Mortgage Association's ("FNMA") motion to remand. (Doc. #7). Appellant Sean Margulis filed an opposition. (Doc. #11). Defendant then filed a reply. (Doc. #12).

FNMA purchased a property located at 10433 Bay Ginger Lane, Las Vegas, Nevada at a foreclosure sale on April 25, 2011. (Doc. #7, Ex. 1). Margulis, the prior owner of the property, refused to vacate the premises. (Doc. #7). Therefore, FNMA filed an unlawful detainer action in state court on May 23, 2011. (Doc. #7, Ex. 2). The parties then engaged in substantial legal proceedings in state court. The state court granted a temporary writ of restitution on July 5, 2011. (Doc. #7, Ex. 3). On September 1, 2011, Margulis filed a state court appeal. (Doc. #7, Ex. 4). Then, on October 7, 2011, Margulis removed the action to federal court. (Doc. #1).

FNMA advances several arguments to support its motion to remand, including: (1) this case does not satisfy the amount in controversy requirement of 28 U.S.C. § 1332; (2) Margulis did not

1 remove the case within 30 days of receipt of a copy of the initial pleading pursuant to 28 U.S.C. §
2 1446(b); and (3) several state law procedural defaults. (Doc. #7). Margulis' opposition only
3 addresses FNMA's amount in controversy argument; it does not address the untimeliness or state
4 law procedural default arguments. (*See* Doc. #11).

5 Pursuant to 28 U.S.C. § 1446(b), a defendant must file a notice of removal of a civil action
6 "within thirty days after the receipt by the defendant . . . of a copy of the initial pleading setting forth
7 the claim for relief"

8 Margulis does not dispute – or even address – the fact that he has been litigating this case in
9 state court for far longer than the 30-day window provided in 28 U.S.C. § 1446(b). Therefore,
10 Margulis' removal was untimely.

11 Accordingly,

12 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that appellee Federal National
13 Mortgage Association's motion to remand (doc. #7) be, and the same hereby is, GRANTED.

14 DATED December 23, 2011.

15
16 
17

UNITED STATES DISTRICT JUDGE
18
19
20
21
22
23
24
25
26
27
28